

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

NOEL DIMICK GOLDTHWAITE, M.D.)

**Physician's and Surgeon's)
Certificate No. G 45635)**

Respondent)

Case No. 800-2014-009727

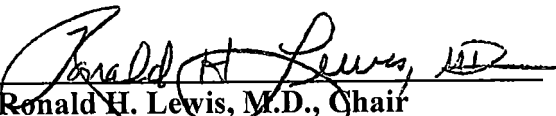
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 12, 2019.

IT IS SO ORDERED: June 12, 2019.

MEDICAL BOARD OF CALIFORNIA


Ronald H. Lewis, M.D., Chair
Panel A

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Attorney General of California
2 JANE ZACK SIMON
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 800-2014-009727

14 **NOEL DIMICK GOLDTHWAITE, M.D.**
455 Hickey Blvd., Suite 310
15 Daly City, CA 94015

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Physician's and Surgeon's Certificate No. G
45635

17
18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer,
25 Deputy Attorney General.

26 2. Respondent Noel Dimick Goldthwaite, M.D. (Respondent) is representing himself in
27 this proceeding and has chosen not to exercise his right to be represented by counsel.
28

3. On July 27, 1981, the Board issued Physician's and Surgeon's Certificate No. G 45635 to Noel Dimick Goldthwaite, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-009727, and will expire on June 30, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-009727 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent, who timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-009727 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2014-009727. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2014-009727, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 45635 issued to Respondent Noel Dimick Goldthwaite, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified, and shall include courses in prescribing practices and medical records documentation. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test

Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

1 A medical record keeping course taken after the acts that gave rise to the charges in the
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
3 or its designee, be accepted towards the fulfillment of this condition if the course would have
4 been approved by the Board or its designee had the course been taken after the effective date of
5 this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the course, or not later than
8 15 calendar days after the effective date of the Decision, whichever is later.

9 5. MONITORING – PRACTICE. Within 30 calendar days of the effective date of this
10 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
11 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
12 licenses are valid and in good standing, and who are preferably American Board of Medical
13 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
14 relationship with Respondent, or other relationship that could reasonably be expected to
15 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
16 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
17 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

18 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
19 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
20 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
21 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
22 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
23 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
24 signed statement for approval by the Board or its designee.

25 Within 60 calendar days of the effective date of this Decision, and continuing throughout
26 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
27 make all records available for immediate inspection and copying on the premises by the monitor
28 at all times during business hours and shall retain the records for the entire term of probation.

1 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
2 date of this Decision, Respondent shall receive a notification from the Board or its designee to
3 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
4 shall cease the practice of medicine until a monitor is approved to provide monitoring
5 responsibility.

6 The monitor(s) shall submit a quarterly written report to the Board or its designee which
7 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
8 are within the standards of practice of medicine, and whether Respondent is practicing medicine
9 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
10 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
11 preceding quarter.

12 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
13 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
14 name and qualifications of a replacement monitor who will be assuming that responsibility within
15 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
16 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
17 notification from the Board or its designee to cease the practice of medicine within three (3)
18 calendar days after being so notified. Respondent shall cease the practice of medicine until a
19 replacement monitor is approved and assumes monitoring responsibility.

20 In lieu of a monitor, Respondent may participate in a professional enhancement program
21 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
22 review, semi-annual practice assessment, and semi-annual review of professional growth and
23 education. Respondent shall participate in the professional enhancement program at Respondent's
24 expense during the term of probation.

25 6. NOTIFICATION. Within 7 days of the effective date of this Decision, the
26 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
27 Chief Executive Officer at every hospital where privileges or membership are extended to
28 Respondent, at any other facility where Respondent engages in the practice of medicine,

1 including all physician and locum tenens registries or other similar agencies, and to the Chief
2 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
3 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
4 calendar days.

5 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

6 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
7 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
8 advanced practice nurses.

9 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
10 governing the practice of medicine in California and remain in full compliance with any court
11 ordered criminal probation, payments, and other orders.

12 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
13 under penalty of perjury on forms provided by the Board, stating whether there has been
14 compliance with all the conditions of probation.

15 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
16 of the preceding quarter.

17 10. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

19 Respondent shall comply with the Board's probation unit.

20 Address Changes

21 Respondent shall, at all times, keep the Board informed of Respondent's business and
22 residence addresses, email address (if available), and telephone number. Changes of such
23 addresses shall be immediately communicated in writing to the Board or its designee. Under no
24 circumstances shall a post office box serve as an address of record, except as allowed by Business
25 and Professions Code section 2021(b).

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1 Place of Practice

2 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
3 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
4 facility.

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

9 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
10 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
11 calendar days.

12 In the event Respondent should leave the State of California to reside or to practice
13 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
14 departure and return.

15 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
16 available in person upon request for interviews either at Respondent's place of business or at the
17 probation unit office, with or without prior notice throughout the term of probation.

18 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
19 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
20 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
21 defined as any period of time Respondent is not practicing medicine as defined in Business and
22 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
23 patient care, clinical activity or teaching, or other activity as approved by the Board. If
24 Respondent resides in California and is considered to be in non-practice, Respondent shall
25 comply with all terms and conditions of probation. All time spent in an intensive training
26 program which has been approved by the Board or its designee shall not be considered non-
27 practice and does not relieve Respondent from complying with all the terms and conditions of
28 probation. Practicing medicine in another state of the United States or Federal jurisdiction while

1 on probation with the medical licensing authority of that state or jurisdiction shall not be
2 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
3 period of non-practice.

4 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
5 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
6 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
7 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
8 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

9 Respondent's period of non-practice while on probation shall not exceed two (2) years.

10 Periods of non-practice will not apply to the reduction of the probationary term.

11 Periods of non-practice for a Respondent residing outside of California will relieve
12 Respondent of the responsibility to comply with the probationary terms and conditions with the
13 exception of this condition and the following terms and conditions of probation: Obey All Laws;
14 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
15 Controlled Substances; and Biological Fluid Testing..

16 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
17 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
18 completion of probation. Upon successful completion of probation, Respondent's certificate shall
19 be fully restored.

20 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
21 of probation is a violation of probation. If Respondent violates probation in any respect, the
22 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
23 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
24 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
25 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
26 the matter is final.

27 15. LICENSE SURRENDER. Following the effective date of this Decision, if
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy


1 the terms and conditions of probation, Respondent may request to surrender his or her license.
2 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
3 determining whether or not to grant the request, or to take any other action deemed appropriate
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
8 application shall be treated as a petition for reinstatement of a revoked certificate.

9 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
10 with probation monitoring each and every year of probation, as designated by the Board, which
11 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
12 California and delivered to the Board or its designee no later than January 31 of each calendar
13 year.

14 ACCEPTANCE

15 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
16 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
17 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
18 agree to be bound by the Decision and Order of the Medical Board of California.

19
20 DATED: 15 MAY 19


21 NOEL DIMICK GOLDTHWAITE, M.D.
22 Respondent

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28 ///

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: May 15, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-009727

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 23 20 17
BY [Signature] ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **Noel Goldthwaite, M.D.**
455 Hickey Blvd., Suite 310
12 Daly City, CA 94015

Case No. 800-2014-009727

A C C U S A T I O N

13 Physician's and Surgeon's Certificate No. G 45635,
14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

- 18 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
19 capacity as the Executive Director of the Medical Board of California.
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21 2. On or about July 27, 1981, the Medical Board issued Physician's and Surgeon's
22 Certificate Number G 45635 to Noel Goldthwaite, M.D. (Respondent). The Physician's and
23 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
24 and will expire on June 30, 2019, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board, under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.
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1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other
4 action taken in relation to discipline as the Board deems proper.

5 5. Section 2234 of the Code states, in pertinent part:

6 “The board shall take action against any licensee who is charged with unprofessional
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
8 limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of this chapter.

11 “(b) Gross negligence.

12 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
13 omissions. An initial negligent act or omission followed by a separate and distinct departure from
14 the applicable standard of care shall constitute repeated negligent acts.

15 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
16 for that negligent diagnosis of the patient shall constitute a single negligent act.

17 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
18 constitutes the negligent act described in paragraph (1), including, but not limited to, a
19 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
20 applicable standard of care, each departure constitutes a separate and distinct breach of the
21 standard of care.”

22 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
23 adequate and accurate records relating to the provision of services to their patients constitutes
24 unprofessional conduct.”

CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Inadequate Records)

7. Respondent Noel Goldthwaite, M.D. is subject to disciplinary action under sections 2234 and/or 2234(b) and/or 2234(c) and/or 2266 in that Respondent engaged in unprofessional conduct and/or was grossly negligent and/or committed repeated acts of negligence and/or failed to maintain adequate medical records for his patients. The circumstances are as follows:

8. Patient A.A.¹, a 56 year old female with a history of a prior industrial accident and diagnoses of degenerative disc disease of the cervical and lumbar spine, came under Respondent's care in 2010. Patient A.A. underwent an anterior cervical fusion in 2012 and a lumbar fusion in 2015. After the lumbar fusion procedure, Patient A.A. experienced increased pain as the result of impingement of the implant at L2-3. Requests for insurance authorization to correct the condition by a further surgery were denied. Patient A.A. was placed on high dose opioid therapy, including oxycodone/APAP (10/325 mg, #180), a short-acting opioid, and hydromorphone (4 mg, #180), a long-acting opioid, as well as meloxicam (7.5 mg, #60), an anti-inflammatory drug, and gabapentin (300 mg, #60). As a consequence, Patient A.A.'s daily morphine equivalent dosing placed her at greater risk for respiratory arrest. As part of her industrial accident claim, Patient A.A. was evaluated by other physicians who opined that she should be encouraged to utilize alternative treatments and psychotherapy to address her chronic pain syndrome. Patient A.A.'s course of treatment required documentation which is not contained in Respondent's records, including a discussion of the risks of prolonged and heavy use of narcotics, narcotic dependency and overdose issues. A pain management plan, specifically discussing attempts and methods to decrease the patient's narcotic use, appropriate consultations, urine testing and pain contracts

¹ Names are abbreviated to protect privacy rights.

1 should either have been utilized or the reason why they were not being provided should have been
2 documented.

3 9. Patient E.A., who was a 42 year old female at the time of an industrial injury in 2010,
4 came under Respondent's care for back and neck pain in or about 2011. Patient E.A.'s history
5 was significant for a disc replacement at C 5-6 in January 2012 with post surgical radiculopathy,
6 lumbar strain, degenerative disc disease, L 4-5 intraforaminal herniation and radiculopathy and
7 chronic pain. She also suffered from Major Depression and anxiety. During the course of her
8 treatment, Respondent prescribed oxycodone (10/325 mg, #120), a short-acting opioid, oxycontin
9 (30 mg, #90) a long-acting opioid, nuvigil (150 mg, #30), a wake-promoting drug with effects
10 similar to amphetamine, and lorazepam (1 mg, #90), a benzodiazepine. Ultimately, E.A.'s insurer
11 questioned the lack of documented rationale for the combined use of oxycodone and oxycontin
12 and the patient was transitioned to another medication and referred to a pain management clinic.
13 Patient E.A.'s course of treatment with Respondent required documentation which is not
14 contained in Respondent's records, including a discussion of the risks of prolonged and heavy use
15 of narcotics, narcotic dependency and overdose issues, as well as the risks associated with
16 combining an opioid with a benzodiazepine. A pain management plan, specifically discussing
17 attempts and methods to decrease the patient's narcotic use in light of opioid-induced
18 somnolence, appropriate consultations, urine testing and pain contracts should either have been
19 utilized or the reason why they were not being provided should have been documented.

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21
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23 10. Patient L.B., a 42 year old female, came under Respondent's care and treatment in
24 2005 for conservative treatment and injections, which were followed by a 3-level instrumented
25 lumbar fusion in 2009 and a bilateral sacroiliac arthrodesis. Patient L.B.'s pain escalated and
26 extremely high dose opioid therapy was instituted, such that L.B. was taking 32 tablets of
27 oxycodone, 30 mg, per day, with resulting morphine equivalent dosing of 1223 mg/day, or more
28

1 than 12 times the CDC recommended maximum. Such high dosing required a documented
2 rationale for departing from accepted dosing guidelines which is not contained in Respondent's
3 records, as well as documentation of alternative treatments and informed consent discussions with
4 the patient about the risks of chronic narcotic use. In a subsequent interview, Respondent stated
5 that Patient L.B. had undergone a gastric bypass procedure, which may have increased her oral
6 dosing requirements. He stated that Patient L.B. had reduced her usage and was recently using
7 less than half the amount of opioid medications she had been. He also stated that repeated
8 attempts to refer the patient for pain management had been unsuccessful because the patient had
9 been turned away based on "her high numbers." However, these matters were not documented in
10 Respondent's records.
11

12 11. Patient W.B., a 45 year old female, came under Respondent's care in or before 2010
13 for neck and back complaints, which complaints resulted from a 1995 industrial accident. Patient
14 W.B.'s diagnosed conditions include: Degenerative disc disease of the cervical spine with disc
15 protrusion and disc osteophyte complex; degenerative disc disease of the lumbar spine and lumbar
16 arthrodesis. Patient W.B. underwent multiple surgical procedures, facet blocks and epidurals, but
17 continued to experience disabling neck and back pain. Patient W.B. was placed on a regimen of
18 hydrocodone/APAP, 30 mg, #360, in or about 2010; however, Respondent's records state that in
19 2012 she was reporting that the 8-12 tablets per day were not effective in controlling her pain. On
20 October 31, 2014 and February 20, 2015, Respondent's records indicate a plan to refer the patient
21 to a pain management clinic. On February 20, 2015, Patient W.B. was asked to sign a medication
22 contract and to submit a sample for urine screening. On February 27, 2015, the results of the
23 urinalysis returned negative for her prescribed opioids. Despite the effort by agreement and test to
24 screen for possible diversion, there was no immediate follow up test and the patient's opioid
25 medications were renewed pending a further test that was not obtained until May 1, 2015, at
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1 which time it was positive. Patient W.B.'s opioid treatment continued through January, 2016, at
2 which time W.B.'s insurer issued only a provisional approval for her narcotic medications. This
3 decision was based upon the inadequacy of Respondent's records as regards the treatment's
4 efficacy in addressing Patient W.B.'s pain levels and patterns and function, including: "Current
5 pain; the least reported pain over the period since the last assessment; intensity of pain after taking
6 the opioid; how long it takes for pain relief; and how long pain relief lasts."


7
8 12. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject
9 to discipline pursuant to sections 2234 and/or 2234(b) and/or 2234(c) and/or 2266 in that
10 Respondent's medical records lack the level of documentation required when opioid prescribing
11 exceeds the recommended maximum morphine equivalent dosing.

12 **PRAYER**

13
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board issue a decision:

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 45635,
17 issued to Noel Goldthwaite, M.D.;
- 18 2. Revoking, suspending or denying approval of Noel Goldthwaite, M.D.'s authority to
19 supervise physician assistants and advanced practice nurses;
- 20 3. Ordering Noel Goldthwaite, M.D., if placed on probation, to pay the Board the costs
21 of probation monitoring; and
- 22 4. Taking such other and further action as deemed necessary and proper.
- 23
24

25
26 DATED: October 23, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant